

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

JOHN G. LaCUESTA, *et al.*, )  
vs. )  
WELLS FARGO BANK N.A., *et al.*, )  
Plaintiffs, )  
Defendants. )  
)  
Case No. 2:10-cv-00064-KJD-PAL  
vs. )  
WELLS FARGO BANK N.A., *et al.*, )  
Defendants. )  
)  
**ORDER**  
(Mot Compel Discovery - Dkt. #25)

The court conducted a hearing on Defendant Wells Fargo's Motion to Compel Discovery (Dkt. #25) on October 5, 2010 at 9:00 a.m. The Plaintiffs did not appear. Cassie Stratford appeared on behalf of the Defendant.

The Motion to Compel seeks an order compelling the Plaintiffs to respond to Defendant's written discovery and to appear for a deposition. The court's Discovery Plan and Scheduling Order (Dkt. #11) established a September 13, 2010 discovery cutoff and related case management deadlines consistent with Local Rule 26-1(e). Wells Fargo served Plaintiffs with a Request for Production of Documents, and First Set of Interrogatories on June 7, 2010, and a Second Set of Interrogatories on June 25, 2010. Plaintiffs did not timely respond.

On June 2, 2010, counsel for Wells Fargo noticed the deposition of each Plaintiff to take place on August 18, 2010. When Plaintiffs did not respond to Defendant's written discovery, counsel for Wells Fargo contacted counsel for Plaintiffs, who indicated he was unable to respond to the discovery based on his inability to reach the clients. Counsel for Wells Fargo granted an extension until August 2, 2010, and an additional extension until August 4, 2010. Plaintiffs have not responded to the written discovery, and did not appear for their depositions on August 18, 2010.

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1       On August 13, 2010, counsel for Plaintiffs filed a Motions to Withdraw (Dkt. ##22, 23) which  
2 the court denied without prejudice because the court was not satisfied that the Plaintiffs had been  
3 notified that these motions would be filed or that the Plaintiffs' last known address had been provided.  
4 On August 30, 2010, the court granted counsel for Plaintiffs' Amended Motions to Withdraw (Dkt.  
5 ##31, 32) giving the Plaintiffs until September 24, 2010 in which to retain counsel, or file a notice with  
6 the courts that they would be representing themselves. The Clerk of the Court was directed to serve the  
7 order at the Plaintiffs' last known address.

8       The Plaintiffs did not comply with the court's order. Additionally, Plaintiffs have still not  
9 responded to Defendant's written discovery requests, and did not file a response to the motion.  
10 Pursuant to Local Rule 7-2(d) "the failure of an opposing party to file points and authorities in  
11 opposition to a motion shall constitute a consent to granting the motion".

12       Having reviewed and considered the matter,

13       **IT IS ORDERED** that:

14       1.      Defendant Wells Fargo's Motion to Compel Discovery (Dkt. #25) is **GRANTED**.

15       Plaintiffs shall have until October 20, 2010, in which to serve full and complete  
16 responses to Defendant's First Set of Requests for Production of Documents and  
17 Interrogatories, served June 7, 2010, and Second Set of Interrogatories served June 25,  
18 2010.

19       2.      Plaintiffs shall appear for their duly noticed depositions within the next 30 days.

20       3.      Failure to timely comply with the provisions of this order will result in the  
21 recommendation to the district judge that Plaintiffs' case be dismissed for their failure to  
22 prosecute, failure to engage in discovery, and failure to comply with this court's order.

23       Dated this 6<sup>th</sup> day of October, 2010.

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25         
26       Peggy A. Teen  
27       United States Magistrate Judge  
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